

Schiller

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

EDWARD BRACEY,

Petitioner,

v.

JEFFREY BEARD, et al.,

Respondents,

CIVIL ACTION (HABEAS CORPUS)

No. 02-CV-3685

Hon. Berle R. Schiller

This is a capital case

FILED

NOV 21 2002

MICHAEL L. HARRIS, Clerk

in

MOTION FOR LEAVE TO RESUBMIT PREVIOUSLY FILED  
MOTION FOR DISCOVERY

Petitioner, Edward Bracey, through undersigned counsel, hereby moves to resubmit his previously filed *Motion for Discovery* as a post-petition discovery motion. In support thereof, Petitioner avers:

1. Petitioner is a death-sentenced prisoner. On October 11, 2002, Petitioner filed a *Motion for Discovery*, seeking, inter alia, discovery of materials relevant to his claim that the prosecution exercised peremptory strikes in a racially discriminatory manner. The Respondents opposed the motion, arguing, in part, that pre-petition discovery should not be granted. Petitioner filed his habeas corpus petition on November 22, 2002. Petitioner's claim is pled in the *Petition for Writ of Habeas Corpus*.

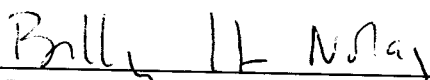
2. The disagreement between Petitioner and Respondents concerning the scope of pre-petition discovery in federal habeas corpus is rendered moot by the filing of the petition. Petitioner asks that his discovery motion be treated as a post-petition discover request, through

the instant *Motion for Leave to Resubmit*.

3. Petitioner also wishes to file a reply addressing the other contentions made by Respondent against the granting of discovery. He shall file this request for a reply separately.

WHEREFORE, Petitioner seeks this Court's leave to resubmit his previously filed Motion for Discovery.

Respectfully submitted,

  
BILLY H. NOJAS  
ROBERT BRETT DUNHAM  
Capital Habeas Corpus Unit  
Federal Court Division  
Defender Association of Philadelphia  
437 Chestnut Street, Suite 510  
Philadelphia, Pa. 19106-2414  
215-928-0520

Dated: November 25, 2002

**CERTIFICATE OF SERVICE**

I, Billy H. Nolas, hereby certify that on this date, I caused the foregoing *Motion for Leave to Resubmit Previously Filed Motion for Discovery* to be served on the following person by first class mail:

Thomas Dolgenos, Esq.  
Office of the Philadelphia County District Attorney  
1421 Arch Street  
Philadelphia, PA 19102

Billy H. Nolas  
Billy H. Nolas

Dated: November 25, 2002

FILED  
NOV 27 2002  
U.S. DISTRICT COURT  
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